

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR  
WASHINGTON, D.C.

In the Matter of )

COUNTY OF MONTEREY, )  
CALIFORNIA, and CENTER )  
FOR **EMPLOYMENT** TRAINING, )

v. )

UNITED STATES DEPARTMENT )  
OF LABOR )

Case No. 82-CPA-33

REMAND ORDER

The issue before me arises under the provisions of the Equal Access to Justice Act, 5 U.S.C. § 504 (1982) (EAJA).<sup>1/</sup> The Administrative Law Judge (ALJ) in the underlying case under the Comprehensive Employment and Training Act, 29 U.S.C. §§ 801-999 (Supp. V 1981) (CETA), upheld a determination of the Grant Officer to disallow the expenditure of certain funds on the grounds that they were misspent, in violation of CETA.<sup>2/</sup> The case was appealed to the United States Court of Appeals for the Ninth Circuit, which remanded it to the Secretary of Labor on October 3, 1984. The Secretary remanded the matter to the Office of Administrative Law Judges (OALJ) to take additional evidence pursuant to and in compliance with the court's Order.

<sup>1/</sup> Public Law 99-80, 99 Stat. 183 (Aug. 5, 1985) amended the **Equal** Access to Justice Act, but the provisions affected by the amendments are not at issue here.

<sup>2/</sup> CETA was repealed by the Job Training Partnership Act of 1982, Pub. L. 97-300, § 184(a)(1), 96 Stat. 1357. That legislation provided that pending proceedings under CETA were not affected. 29 U.S.C. § 1591(e) (1982).

On the Secretary's remand, the ALJ reaffirmed the **disallowance** of the CETA expenditures. I reversed the decision of the ALJ on June 14, 1985.

Center for Employment Training (CET), the affected **sub-grantee**, moved for an award of attorney's fees under **EAJA**. **CET's** original application was filed simultaneously with the Office of the Secretary and the Office of Administrative Law Judges. The Department of Labor (Department) has filed its **response**<sup>3/</sup> with me, noting the deficiencies in the applicant's support for an award of attorney's fees.

The Department's regulations provide that an application for attorney's fees be filed with the "adjudicative officer," 29 C.F.R. § 16.301 (1985), in this case the ALJ. While approving in principle **CET's** request for attorney's fees, I find its substantiation for the amount requested deficient. Section 16.203 of the regulations requires in pertinent part, that:

(a) The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought.

(b) The document shall include an affidavit from each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services

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<sup>3/</sup> The Department does not oppose the award of appropriate fees. The Department's filing on August 30, 1985, was within 30 days of **CET's** second amendment to its application.

performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided.

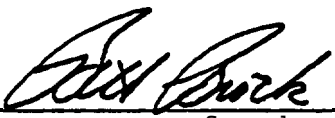
(1) The affidavit shall itemize in detail the services performed by the date, number of hours per date and the services performed during those hours. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients during the relevant time periods.

\* \* \* \*

(c) The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided. 29 C.F.R. § 16.203 (1985) (emphasis added).

CET's application failed to provide the documentation required by the cited provisions. The courts, including the Ninth Circuit, in reviewing fee claims under EAJA, require that applicants for attorney's fees provide sufficient detail to justify the fees claimed. Underwood v. Pierce, 761 F.2d 1342, 1347 (9th Cir. 1985); Save Our Ecosystems v. Clark, 747 F.2d 1240, 1251 (9th Cir. 1984).

Accordingly, I ORDER that the issue of attorney's fees and expenses is REMANDED to the OALJ to determine the justification for the award claimed in accordance with the requirements of the applicable law and regulations.

  
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Secretary of Labor

Dated: October 3, 1985  
Washington, D.C.

CERTIFICATE OF SERVICE

Case Name: **County** of Monterey, CA, and Center for Employment Training  
Case No. : 82-CPA-33  
Document : Remand Order

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